IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 1607 of 1999
With
SPECIAL CIVIL APPLICATION No. 1519 of 1999

For Approval and Signature:

HONOURABLE MR.JUSTICE KSHITIJ R.VYAS

HONOURABLE MR.JUSTICE AKSHAY H.MEHTA

==========

1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

==========

LALLUBHAI MATHURBHAI PARMAR - Petitioner(s)

Versus

STATE OF GUJARAT & 1 - Respondent(s)

==========

Appearance :
MR SAMIR U SHAH for Petitioner(s) : 1, 1.2.1, 1.2.2, 1.2.3,1.2.4
MR SP HASURKAR A.G.P. for Respondent(s) : 1 - 2.

==========

CORAM : HONOURABLE MR.JUSTICE KSHITIJ R.VYAS
and
HONOURABLE MR.JUSTICE AKSHAY H.MEHTA

Date : 25/01/2006

ORAL JUDGMENT

(Per : HONOURABLE MR.JUSTICE KSHITIJ R.VYAS)

1. Since the subject matter involved in these petitions, namely land

bearing Survey No. 249 paiki situated at Mouje Akota, Taluka Vadodara, District Vadodara is the same, both these petitions are heard together and now they are being disposed of by this common judgment. When the matter is called out Mr. S.U. Shah learned advocate appearing for the petitioner in Special Civil Application No. 1607 of 1999 is absent. On the last date of hearing also i.e., on 18th January, 2006, he was absent. However, with a view to give him one more chance we had adjourned the matter to 25th January, 2006 i.e., today. The matter is of the year 1999 and it has been adjourned from time to time. Hence, we have decided to proceed with the hearing of the case.

2. So far as Special Civil Application No.1607 of 1999 is concerned, the facts as they emerge from the petition are that the land in question admeasuring 1.92 lacs sq, mtrs., was acquired for the purpose of establishing vaccine institute. The acquisition proceedings commenced in the year 1963 and on 25th March, 1963, on completion of the due procedure, award was declared under Section 11 of the Land Acquisition Act and the possession of the land was thereafter taken by the respondent Government in the year 1968. It is the say of the petitioners that major portion of the said land remained unused and unutilized for many years and even on the date of filing of the petition the position remained the same. In view of this, heirs of the original land owners submitted an application dated 22nd April, 1997 to respondent no. 2 - Collector, Vadodara district to return the unutilized portion of the land to them as regrant. It is the say of the petitioners that by order dated 10th September, 1997, respondent no. 2 directed regrant of land admeasuring 14,627 sq. mtrs., to the heirs of the original owners upon condition that they should pay sum of Rs.4,68,06,800=00 to Government. This amount was based on the prevailing market rate. It was intimated to the owners that upon payment of the requisite amount, the land would be returned to them. It is the say of the petitioners that

on 15th September, 1997, initially a sum of Rs.2,51,111=00 was deposited by them with the respondent Government. Thereafter a further sum of Rs.1,56,00,000=00 was required to be deposited with the respondent Government which was done in two installments namely first installment of Rs.50,00,000=00 and the other of Rs.1,06,06,400=00, Thus, the petitioner in all deposited a sum of Rs.1,58,57,511=00, along with the other land owners. Thereafter, on 2nd June, 1998 the petitioners made a request to the Special Land Acquisition Officer to hand over the possession of the said land to them. It is their grievance that despite repeated request and also meeting them personally time and again, respondent no. 2 did not return the possession to the petitioners. Hence another application was made on 16th January, 1999 to the Special Land Acquisition Officer requesting to hand over the possession of the land to the petitioners. It is now stated by the petitioners that their all efforts have proved in vain and till this date the possession has not been given back to the petitioners. They have, therefore, prayed in this petition that the respondents be directed to hand over the possession of the portion of the Survey No. 249 paiki admeasuring 14,627 sq. mtrs., to them since they have paid full amount as directed by the respondents. By way of interim order, it is prayed that the petitioners may not be restrained by the respondents from using the land admeasuring 14,627 sq. mtrs., of Survey No. 249 paiki.

3. So far as another petition namely Special Civil Application No. 1519 of 1999 is concerned, the said petition is by way of Public Interest Litigation and the relief that is prayed in the said petition is that this Court may issue appropriate writ, order or direction to quash and set aside the order dated 10th June, 1997 passed by the Collector, Vadodara regranting the land in question to the respondents of that petition. By way of interim relief it is prayed that the respondents be restrained from handing over the possession of the land

in question to the original owners of the land. Mr. A.L. Sharma learned advocate for the petitioners is absent.

4. At the hearing, it is stated by Mr. S.P. Hasurkar learned A.G.P., that respondent no. 2's decision dated 10th June, 1997 to regarnt the land to the heirs of the owners has been reconsidered by the Government and upon reconsideration it was decided to revoke the order passed by respondent no. 2 and on that very date, the Revenue Department of the Government of Gujarat by order dated 10th June, 1996 revoked the order of respondent no.2. Mr. Hasurkar produces a copy of the written intimation dated 7th June, 2002 in this behalf along with the forwarding letter which was written by the Section Officer, Revenue Department Government of Gujarat to the Assistant Government Pleader dated 18th July, 2002. He also places on record the status report of Special Civil Application No.1519 of 1999 which is forwarded to him by the Secretary (LR), Revenue Department, which gives the status upto period ending on June, 2002 wherein in paragraph 6 it is stated that the Government has taken a decision to cancel the earlier order dated 10th June, 1997 regarding regrant of the land to the concerned land owners. These documents are ordered to be taken on record. It is further stated by Mr. Hasurkar that the money that was deposited by the heirs of the original owners have been returned to them. In support of his say, Mr. Hasurkar also produces communication addressed to the Special Land Acquisition Officer by the Treasury office, Vadodara dated 31st December, 2003, ordering refund of the amount deposited by the heirs of the original owners. The same is ordered to be taken on record. In view of these facts, it becomes clear that both these petitions have now become infructuous since the order of revocation passed by the Government has made the aforesaid order of respondent no. 2 ineffective. In other words, the same is set aside by the Government. Thus, the entire base of the petition namely Special Civil

Application no. 1607 of 1999 gets dislodged on account of the decision of the Government and no relief can be granted by this Court in this petition. Similarly, when the order of respondent no. 2 is quashed and set aside by the Government, prayer made in other petition namely Special Civil Application No. 1519 of 1999 can also be not granted by this Court since the same has already been granted by the Government. In view of the same, both these petitions have become infructuous. Hence, they are dismissed as having become infructuous. Rule is discharged with no order as to costs.

[Kshitij R. Vyas, J.]

[Akshay H. Mehta, J.]

/phalguni/